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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,832	10/05/2000	Giadro Serego Allighieri	CM1749	4313

7590 05/20/2004

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EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/647,832	SEREGO ALLIGHIERI ET AL.	
	Examiner	Art Unit	
	Cephia D. Toomer	1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37 and 39 is/are allowed.
- 6) ☒ Claim(s) 16-36 and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.*
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 4, 2003 has been entered.
2. This Office action is in response to the amendment filed February 2, 2004 in which claims 16-38 were amended and claim 39 was added.
3. The rejections of the claims over WO9742276 and Malik (H269) are withdrawn in view of the amendment to the claims and applicant's arguments.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 9731093.

WO '93 teaches a disinfecting composition (neat or diluted) having a pH of not more than 12 (see claims 11 and 15) comprising a peroxygen bleach, an antimicrobial

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essential oil, an aldehyde, a nonionic and amphoteric surfactant (see abstract; Examples page 13, lines 20-24) and other additives. The peroxygen bleach of WO '093 may be any of those that applicant recites in claim 21 of the present invention (see WO '093 claim 2).

WO '093 teaches the same antimicrobial essential oils as Applicant (see page 9, lines 19-30). The composition contains 0.01-10% of peroxygen bleach, 0.003% to 4 aldehyde, 0.003%-10% essential oil and 0.3-30% by weight nonionic surfactant (see claims 5-8; page 11, lines 29-32). The nonionic surfactant is of the formula $RO(C_2H_4O)_n(C_3H_6O)_mH$ where R is C_6-C_{22} alkyl n is 0 and n is up to 20. The compound of WO '093 is a tautomer of the present polyalkylene glycol ether. WO '93 teaches that the composition may be applied as a spray or as wipe (see claims 12 and 13). WO '093 teaches the limitations of the claims other than the differences that are discussed below.

In the first aspect, WO '093 differs from the claims in that the polyalkylene glycol ether is a tautomer of the present invention. However, no unobviousness is seen in this difference because the skilled artisan recognizes and expects tautomer to function in the same manner.

In the second aspect, WO '093 differs from the claims in that it does not specifically teach that R_3 is butyl (claims 2 and 38). However, R in WO may be hexyl, which is a homolog of butyl, and the skilled artisan would reasonably expect that compounds differing by 2 carbons atoms would function in a similar manner.

Applicant argues that Romano (WO '093) does not teach a branched propyl group in the polyalkylene glycol ether nor does Romano teach the ethers of claim 38.

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Romano makes no distinction between branched and linear. The generic formula C_3H_6O – encompasses both branched (CH_2CHCH_3) and linear ($CH_2CH_2CH_2$). With respect to the ether of claim 38, Romano teaches a tautomer of the claimed ether and the skilled artisan would expect that these tautomers would function in the same or similar manner.

6. Claims 37 and 39 are allowable because the prior art fails to teach or suggest a liquid disinfectant composition comprising the claimed poly(alkylene glycol) ethers.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

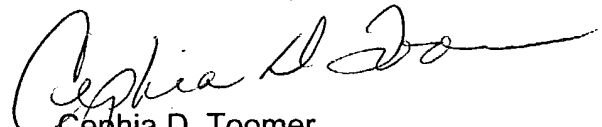
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cephia D. Toomer
Primary Examiner
Art Unit 1714

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